

**Remarks**

The Application has been reviewed in light of the Final Official Action mailed May 25, 2007. Claim 7 has been amended. Claims 7-29 are pending in the Application.

Applicant submits that the amendments are supported by specification, the drawings and the claims as originally filed.

Applicant would like to thank the Examiner for the courtesy of a telephone interview. During the interview, Applicant and Examiner reviewed the Final Official Action and the Examiner's rejections under 35 U.S.C. §112 and 102(b). Applicant adopts the substance of the interview as stated by the Examiner in the Interview Summary.

The Examiner rejected claims 7-29 under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states that claim 7 is indefinite because the claim does not indicate how particulate material is introduced in to the claimed device. Applicant has amended claim 7 to address this rejection. In particular, claim 7 recites "an opening for placing particulate material in to the container."

The Examiner also states that claim 7 is indefinite because "it is unclear as to the treatment resulting from the apparatus on the particulate material because there is no treating means or structure in the body of the claim. Therefore, the preamble of the claim is not indicative or corresponding with the body of the claim." Applicant respectfully requests that the Examiner reconsider this rejection. As noted in Applicants prior response. "Breadth of a claim is not to be equated with indefiniteness." MPEP §2173.04 citing In re Miller, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). By not includ-

ing a spray device or other elements in claim 7, Applicant simply intends that the presence or absence of these elements is not a limitation to claim 7. Thus, simply because the scope of claim 7 could apply to treatment devices with or without spraying devices does not mean that the claim is indefinite.

In view of the foregoing, Applicant respectfully submits that claim 7 as amended is not indefinite.

The Examiner rejected claims 7-20, 23-25 and 29 under 35 U.S.C. 102(b) as being anticipated by Huetttlin, WO00/10699 ("WO '699"). The Examiner rejected claims 21 and 22 under 35 U.S.C. 103(a) as being unpatentable over '699 in view of Huetttlin, DE 10104184 ("DE '184"). Applicant respectfully requests that the Examiner reconsider this rejection in light of the fact that claim 7 as amended requires that the apparatus comprise "at least a first air gap in an upper portion of the wall that transitions from said wall to said deflection element."

As noted in Applicant's prior response, WO '699 discloses a container 24 with a bottom 26 and an upstanding wall 28. (US 2001/0016224 ("Pub '224") par [0098]). The container 24 has an upper edge 42 of the wall 28 "drawn in and radially inwardly curved." (Pub '224 par [0103]). Process air is introduced through "supplying means 66 include a supplying channel 68 which opens below the bottom 26 of the container 24. The process air is introduced from the outside through the housing 14, where the flow direction is illustrated in FIG. 1 by wide arrows 70." (Pub '224 par [0112]).

Applicant submits that WO '699 does not anticipate the claimed invention because WO '699 does not disclose a treatment apparatus with "at least a first air gap in an upper portion of the wall that transitions from said wall to said deflection element." Fig. 1 of WO '699 shows that there is a continuous transition from wall 28 to upper edge 42. The Examiner previously identified the area about element 12 of WO '699 as an air

gap. However, this area would not satisfy the claimed limitation because this area simply resides next to wall 28 and upper edge 42. As a result, WO '699 does not anticipate the claimed invention because it does not disclose "at least a first air gap in an upper portion of the wall that transitions from said wall to said deflection element."

Applicant further submits that an alternative rejection under 35 U.S.C. 103(a) would also be improper because claim 7 is not obvious in view of WO '699.

It is well settled that to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). As discussed above, WO '699 does not disclose an "air gap in an upper portion of the wall that transitions from said wall to said deflection element." The air gap as identified by the Examiner simply resides adjacent to wall 28 and upper edge 42. Thus, claim 7 is not prima facie obvious in view of WO '699.

Applicant also submits that claim 7 is not obvious over WO '699 because this reference provides no basis for one skilled in the art to modify WO '699 in accordance with claim 7. As noted above, WO '699 discloses that process air is introduced through "supplying means 66 include a supplying channel 68 which opens below the bottom 26 of the container 24. The process air is introduced from the outside through the housing 14, where the flow direction is illustrated in FIG. 1 by wide arrows 70." (Pub '224 par [0112]). Thus, WO '699 discloses introducing process air in to the container through the bottom. This disclosure does not provide a reasonable basis to conclude that one skilled in the art would modify the apparatus in WO '699 to include "at least a first air gap in an upper portion of the wall that transitions from said wall to said deflection element." As a result, claim 7 is not obvious over WO '699.

In view of the foregoing remarks, it is respectfully submitted that all of the claims currently pending in the application are in condition for allowance. Reconsideration and notice to that effect is earnestly requested.

Respectfully submitted,

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/ Wesley W. Whitmyer, Jr./

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